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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,236	08/05/2003	Stefan Eichhorst	5362-000469	6402

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EXAMINER

BLANKENSHIP, GREGORY A

ART UNIT PAPER NUMBER

3612

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,236

Applicant(s)

EICHHORST ET AL.

Examiner

Greg Blankenship

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 10/5/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 5 and 8-12 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 13, 15-18 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 14 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/5/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Just et al. (6,443,517).

Just et al. disclose a modular convertible assembly having a wall member (5) with a releasable panel (6). Attached, either directly or indirectly, to the wall member (5) and releasable panel (6) are a linkage assembly (7), a hydraulic control system, and an electronic control unit (10). The linkage assembly supports the roof panels (2). Bolt holes (11) are provided as attachment points. A vertical wall extends along the top portion of the panel (6) between a floor portion of the panel (6) and the vehicle's beltline.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 15, 16, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Willard (6,497,447).

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Just et al. does not disclose a latch motor controlled by the electronic control unit.

Willard discloses a latch (31) powered by an electric motor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a latch that is powered by an electric motor coupled to the electronic control unit of Just et al., as taught by Willard, to provide an automatic latching mechanism to reduce the steps an operator must do to raise/lower the roof.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Wolf et al. (5,881,458).

Just et al. does not disclose the claimed speakers.

Wolf et al. teach the addition of speakers (14) to the wall (6) that defines part of a convertible top storage container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount speakers to the removable panel of Just et al., as taught by Wolf et al., to reduce assembly time and to save space.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Neubrand (6,217,104).

Just et al. does not disclose a hard top convertible roof.

Neubrand teaches the use of rigid panels to form a convertible roof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use rigid panels to form the convertible roof of Just et al., as taught by Neubrand, to provide a more aesthetically pleasing roof that also provides better protection from environmental hazards.

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7. Claims 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of references, as applied to claim 1, in view of Neubrand (6,217,104).

Just et al., as modified, does not disclose a hard top convertible roof.

Neubrand teaches the use of rigid panels to form a convertible roof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use rigid panels to form the convertible roof of Just et al., as modified, as taught by Neubrand, to provide a more aesthetically pleasing roof that also provides better protection from environmental hazards.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of references, as applied to claim 1, and the 2001 Ford Mustang convertible.

Just et al., as modified, does not disclose a window defroster.

The 2001 Ford Mustang convertible has a window defroster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a window defroster to the electronic control unit of Just et al., as taught by the 2001 Ford Mustang convertible, to reduce the amount of time and effort needed to clear frost from the window.

Allowable Subject Matter

9. Claims 4, 5, 8-12 are allowed.
10. Claims 14 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 10/5/2004 have been fully considered but they are not persuasive. The applicant has argued that Just et al. does not disclose an electronic control unit as claimed. The examiner disagrees since the control unit (10) is the only connection between the electrical devices located on the roof module and the vehicle's electrical system. Furthermore, any electrical components added to the roof module must also receive its power through the control unit in order to keep with the goals of Just et al. The applicant has also argued that the panel of Just et al. does not form a bulkhead. The examiner disagrees since the panel (6) does separate the roof storage compartment from the surrounding areas, which is one of the applicant's examples of a bulkhead.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is (703) 305-0223.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 20231


Or faxed to:

(703) 872-9306, (for formal communications intended for entry)

or:

(703) 746-3511, (for informal or draft communications, please clearly label "FOR DISCUSSION PURPOSES ONLY", "PROPOSED" or "DRAFT")

gab
January 10, 2005


D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
1/10/05